IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

SECOND APPEAL NO. 574 OF 2007

Bhimrao Krishnaji Ingole & Anr. vs. Babasaheb Namdeorao Bhutkar

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
NOVEMBER 19, 2007.

Heard Shri Gawali, learned counsel for the appellants – original defendants.

The suit for specific performance filed by respondent was decreed by trial Court on 31.3.2004 and appeal filed against it by present appellant vide Regular Civil Appeal No. 59 of 2004 has been partly allowed. The appellate Court has quashed the direction to execute sale deed observing that real nature of transaction between the parties appears to be in doubt and therefore it has directed refund of amount of Rs.80,000/- received by present appellants under said transaction.

The learned counsel appearing for the appellants argues that the appellants have not received said amount of Rs.80,000/- and there

is no evidence on record by any other independent person to prove this. He further argues that the appellant did purchase a motor vehicle from respondent and a blank signed document was handed over to respondent – original plaintiff only as security and said document has been misused.

The argument basically raises a question of fact. The appellate Court has found that amount of Rs.80,000/- was received by present appellants from the respondent and therefore has ordered its refund. The finding is supported by evidence which is appreciated by the appellate Court as also by the trial Court. The finding is, therefore, concurrent.

In the circumstances, no substantial question of law arises in this Second Appeal. Accordingly the same is dismissed. No order as to costs.

JUDGE

***GS.**